

April 6, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L98P0029**
Proposed Ordinance No. **1999-0149**

GREEN WOOD LANE

Application for Preliminary Plat Approval

Location: Between South 302nd Place and South 305th Street,
on the east side of 51st Avenue South

Property Owner: Gust Erickson
Puget Western, Inc.
19515 North Creek Parkway, Suite 310
Bothell, WA 98011

Applicant: Novastar Development, Inc.
Attn: Wayne Potter
18215 72nd Avenue South
Kent, WA 98032

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision :	Approve, subject to conditions

PRELIMINARY MATTERS:

Application or petition submitted:	August 11, 1998
Complete application:	September 8, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	10:15 AM, March 23, 1999
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Hearing Closed:

2:30 PM, March 23, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Drainage
- Traffic
- Density (subdivision)
- Safe walking conditions for students
- Wetlands
- Buffers

EXAMINER'S SUMMARY:

Examiner found proposed plat of Green Wood Lane consistent with applicable state and county policy and law, especially with respect to disputed issues involving wetlands, pedestrian facilities, drainage, traffic and density. Rodent infestation concerns addressed, but not regulated or mitigated.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer:	Novastar Development, Inc. 18215 72 nd Avenue South Kent, WA 98032 (425) 251-6110 Attn: Wayne Potter
Engineer:	Barghausen Consulting Engineers 18215 72 nd Avenue South Kent, WA 98032 (425) 251-6222
STR:	2-21-4
Location:	Between South 302 nd Place and South 305 th Street, on the eastside of 51 st Avenue South.
Zoning:	R4 (4 units/acre)
Number of Lots:	33
Density:	3.97 units/acre
Typical Lot size:	5,000 square feet
Proposed Use:	Detached single-family residences
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Lakehaven Utility District
Fire District:	King County #39
School District:	Federal Way
Complete	

Application Date: September 8, 1998

2. **Proposed Subdivision.** Novastar Development, Inc. (the "Applicant") proposes to subdivide an 8.3 acre parcel (classified Urban R4). The average lot size will be approximately 5,000 square feet. The proposed development will include a minimum of 12,870 square feet of recreation space. Further, the entire south 120 feet of the subject property, encumbered by City of Tacoma Water Department and Puget Sound Energy easements will be reserved as permanent open space, comprising 131,926 square feet. The proposed development is described further by the Applicant's preliminary plat drawing dated February 3, 1999 [revised] included in this hearing record as Exhibit No. 7 and as a (reduced scale) attachment to the preliminary report to the Hearing Examiner dated March 23, 1999 (Exhibit No. 2) prepared by the Department of Development and Environmental Services (hereinafter, the "Department" or "DDES").
3. **SEPA.** On January 27, 1999, the Department issues a threshold determination of nonsignificance (DNS) for the proposed plat of Green Wood Lane. That is, the Department published its determination that, based on its review of the Applicant's Environmental Checklist and other relevant environmental documents, the proposed development would not cause a probable significant adverse impact upon the environment and therefore it would not require preparation of an environmental impact statement. No person, agency, tribe or other entity appealed that determination.
4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Green Wood Lane, subject to the 19 conditions of final plat approval contained in pages 6 through 10 of the Department's preliminary report to the Examiner (Exhibit No. 2) *with the following amendments:*
 - A. The Department recommends that the Applicant's voluntary proposal to construct a 5-foot wide, paved, separated walkway from the Green Wood Lane entrance (proposed South 303rd Court) northward to South 302nd Place (which enters the northerly abutting plat of Grand Firs). This additional improvement is proposed in order to assure compliance with the "safe student walking conditions" standard contained in RCW 58.17.110 and will provide for safe passage of any elementary school students who will live in Green Wood Lane.
 - B. In response to concerns and observations by a neighboring property owner, the Department recommends that the Applicant be required to obtain additional downstream analysis, particularly with respect to potential flooding problems in Fountain Island Lake such analysis would include interviewing Fountain Island Lake waterfront property owners and, if necessary, developing drainage plan refinements which assure mitigation of adverse downstream drainage conditions that might result from the proposed development.

In addition, the Department indicates that--although not contained in its recommendation--the Department would agree with any required reasonable measures to control the adverse impacts of rodent out-migration from the subject property once development begins. Apparently, according to testimony, the subject property and its vicinity appears to be a pocket or hotbed of rodent (rat) infestation.

5. **Applicant's Position.** The Applicant accepts the Department's recommendation as described in Finding No. 4, preceding.
6. **Neighborhood Concerns.** Several persons testified at the hearing on this proposed development. This finding highlights the most salient of their concerns.
 - A. **Safe walking conditions for students.** Elementary school safe walking conditions will be addressed as indicated in Finding No. 4.A, above. The Green Wood Lane property is located within the Federal Way School District, but abuts the Auburn School District along its south boundary. The school bus stop analysis conducted by the Department suggests a safe southward route (adequate, if not ideal). As it turns out, according to Department testimony (based on discussions with Federal Way School District planners) access to *both* Auburn and Federal Way Middle School and High School bus stop(s) will be obtained by the same southward route along 51st Avenue Southeast, even though the Federal Way School District lies to the north.
 - B. **Rodent infestation.** See Finding No. 4., final paragraph, above.
 - C. **Traffic.** Some neighboring property owners express concern regarding traffic volumes and speeds on 51st Avenue South (the street by which future residents will obtain access to Green Wood Lane). This concern is partly addressed by Finding Nos. 4.A and 6.A, above. In addition, the Department's report and testimony indicate that the Applicant will be required to provide the following:

Frontage development north of South 304th Street providing an 18-foot wide driving lane with vertical curb, gutter and sidewalk;

Internal street improvement to urban subaccess road standard;

Prohibition of direct vehicular access to/from 51st Avenue South from those lots that abut it;

Payment of street improvement fees to the King County MPS (mitigation payment system) in the amount due as of the date of building permit application (if not previously paid at the time of final plat recording). The record contains a traffic impact analysis for Green Wood Lane prepared by the Transpo Group, traffic engineering and planning consultants. That the affected intersections will operate at Level of Service ("LOS") "B" or better following project buildout.

Based on projected peak hour operations of affected intersections in the County's intersection standards, the Applicant will not be required to mitigated site-generated impacts to traffic volumes and intersection operations. If paid today, the MPS fee payment would be approximately \$100 per lot or dwelling unit or approximately \$3,300.
 - D. **Wetlands.** There is a 739 square foot wetland at the intersection of proposed South 303rd Court and 51st Avenue South. That wetland will be filled in order to construct South 303rd Court and frontage improvements along 51st Avenue South. KCC 21A.24

exempts from regulation any isolated wetlands comprising an area smaller than 1,000 square feet.

Another wetland comprising 3,604 square feet is located immediately east of the proposed South 303rd Court cul de sac turnaround bulb. The wetland lies partially upon property owned by this applicant and partly upon easterly abutting property. As a Class 3 wetland it requires a 25-foot wide protective zone around it which KCC 21A.24 calls a "buffer." In order to accommodate the construction of the turnaround bulb the buffer width at the most westerly point of the wetland will be reduced to 14 feet. As compensation, the Applicant's proposal (approved by DDES wetland scientists and regulators) will provide "make up" area in three locations along the south and east boundaries of the wetland buffer.

- E. **Drainage.** The proposed lots, particularly the northern tier of proposed lots (proposed Lot Nos. 15-33) will be graded in such a manner as to provide a 2% to 3% grade *toward* 303rd Court thereby assuring the drainage of nonimpervious surface in that direction and, incidentally, *away* from the northerly abutting plat of Grand Firs. All impervious surfaces will be tightlined to drain to a stormwater retention/detention pond located in a tract at the west boundary of the subject property (comprising 34,012 square feet). In the absence of any study results which may be generated by the additional downstream analysis described in Finding No. 4.A, above, the Department's drainage engineering review unit has determined the proposed retention/detention pond to be adequate and to be consistent with 1990 Surface Water Management Design Manual standards. Recommended Condition No. 8.D, below, will provide for further drainage retention/detention improvement if indicated to be necessary by the additional downstream analysis to be required with respect to Fountain Island Lake.

A "Level One" drainage analysis as required by the 1990 Surface Water Design Manual has been prepared by the Applicant, entered in this hearing record as Exhibit No. 15. In preparation of that analysis the Applicant's engineer is required to consult with the King County Water and Land Resources Division in order to ascertain the presence and nature of complete records. The Applicant indicates that the Water and Land Resources Division provided no record of any complaints regarding Fountain Island Lake. However, the Applicant does not object to the Department's suggestion to require additional review of the Fountain Island Lake situation.

- F. **Density.** Some neighboring property owners express the density of the lots (5,000 square feet each). The density is, in part, a response to the necessity of preserving 131,926 square feet as open space due to City of Tacoma and Puget Sound Energy easement rights. In addition, the density responds to the zoning and to the minimum density requirements contained in the zoning. The Applicant observes, further, that the northerly abutting development of Grand Firs is classified R6. Although not presently developed to that density, the Applicant correctly notes that a higher density is permitted within Grand Firs than within the subject property. Both developments are single family residential. Both developments are within the Urban designated area of King County. The zoning on this property does not prohibit clustering of lots in order to address open space set aside requirements. The minimum applicable lot size is 2,500 square feet, half of the proposed lot size.

CONCLUSIONS:

1. Any portion of Finding Nos. 1 through 6, above, which may be construed as a conclusion is incorporated here by reference.
2. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
3. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
4. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
5. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

GRANT preliminary plat approval to the proposed plat of Green Wood Lane, as described by the preliminary plat drawing dated February 3, 1999, contained in this hearing record as Exhibit No. 7; SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density and minimum density of the R4 zone classification. All lots shall meet the minimum dimensional requirements of the R4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.

All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.

The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

7. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
8. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The Applicant shall conduct further downstream investigation, including interviews with Fountain Island Lake property owners, to determine the need to address potential Fountain Island Lake flooding. Identified problems will be addressed as appropriate, consistent with the KCSWM Design Manual, subject to DDES approval
9. A drainage diversion variance (L98V0103) was approved to direct all of the site stormwater to one detention facility in Tract A. Engineering plans shall be consistent with all conditions of approval for this variance.
10. The following road improvements are required with this subdivision to be constructed according to 1993 King County Road Standards:
 - a. FRONTAGE: The site frontage along 51st Avenue South (east side only) shall be improved to the urban collector arterial standard.

The site frontage along South 304th Street (north side only) shall be improved to a 16-foot driving lane with vertical curb, gutter and sidewalk. It is not the intent of this condition to improve South 304th Street to full urban neighborhood collector geometry.

Both of the above improvements require a full-width overlay following widening, per Section 4.01F(1) of the KCRS.

- b. South 303rd Court shall be improved to the urban subaccess road standard.
 - c. As required by KCRS 5.03 street trees shall be included in the design of the road improvements.
 - d. There shall be no direct vehicular access to or from 51st Ave South from those lots and/or tracts which abut it. A note to this effect shall appear on the engineering plans and final plat.
 - e. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
 - f. The Applicant shall install a 5-foot wide separated walkway northward to the south boundary of South 302nd Place.
11. The planter island (if any) within the turnaround bulb shall be maintained by the abutting lot owners or homeowners associations. This shall be stated on the face of the final plat.
12. Preliminary plat review has identified the following specific sensitive area requirements which apply to this project. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24, and with the specific requirements listed below:
- a. The Class 3 wetland located in Tract C shall have a 25-foot buffer of undisturbed vegetation as measured from the wetland edge. Buffer averaging may be employed, so long as the total amount of the buffer area on-site is not reduced and better resource protection is achieved.
 - b. The wetland and buffer area shall be placed in a Sensitive Area Tract (SAT), and shall be recorded on all documents of title of record for all affected lots.
 - c. A minimum 15-foot building setback line shall be established from the outer edge of the SAT.
 - d. Prior to commencing construction activities on the site, the applicant shall mark the SAT in a highly visible manner, and this area must remain so marked until all development activities in the vicinity of the sensitive areas are completed.
 - e. Prior to final approval of construction activities on the site, the SAT shall be delineated and permanently signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.

13. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

14. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid;" if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
15. Suitable recreation space and facilities shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190. The applicant will provide 12,870 s.f. of recreation space within a separate tract as shown in Attachment 1, with access from South 303rd Court.
- a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e. landscape space, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of

the final plat documents.

- c. A performance bond for the recreation space improvements (including landscaping) shall be posted prior to recording of the plat.
 - d. As requested by Puget Sound Energy, the recreation area shall not install anything metallic (fences, baseball backstops, etc.) or tall structures (basketball rims, etc.) that could interfere with the installation of future transmission lines. Landscaping must not interfere with Puget Sound Energy's ability to access the easement area. All shrubs and trees in the easement area must be of a low-growing variety which normally do not exceed 15 feet in height at maturity.
16. A homeowner's association or other workable organization shall be established to the satisfaction of DDES to provide ownership and continued maintenance of the recreation facilities, associated landscaping, street trees, and sensitive areas tract, and to ensure compliance with easement restrictions, as necessary.

Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

Street Trees shall be provided as follows:

- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage. Spacing may be modified to accommodate the sight distance requirements for driveways and intersections.
- b. Trees shall be located within street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County determines that the trees should not be located in the street right-of-way.
- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners or the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and

approval by DDES, prior to engineering plan approval.

- g. The street trees must be installed and inspected or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

- 19. The following restrictions apply specifically within the 120-foot wide Puget Sound Energy easement in the southern portion of the Green Wood Lane site, which also includes the 100-foot wide City of Tacoma easement. Notes to this effect shall be shown on the engineering plans and final plat. Other restrictions and/or requirements may apply, based upon the agreements between the applicant and the Utilities (PSE; City of Tacoma).
 - a. The recreation area shall not contain anything metallic (fences, baseball backstops, etc.) or tall structures (basketball rims, etc.) that could interfere with the installation of future transmission lines.
 - b. The southern portions of Lots 1-14 overlap into the easement area by approximately 20 feet. No metallic fences and no buildings (metallic or otherwise) shall be placed in this area, including patios, decks and outbuildings of any kind. Flammable or volatile materials may not be stored within the easement area. Non-metallic fences constructed within the easement area shall have removable sections and/or gates to facilitate vehicular access at any and all times.
 - c. All shrubs and trees to be situated in the easement area (whether in the recreation area or in the lots) shall be of a low growing variety which normally do not exceed 15 feet in height at maturity.

ORDERED this 6th day of April, 1999.

R. S. Titus, Deputy
King County Hearing Examiner